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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,135	01/07/2004	L. Ross Allen	47911/267214	4427

826 7590 03/08/2005

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/753,135

Applicant(s)

ALLEN, L. ROSS

Examiner

Chapman E Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8 and 9 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/7/2004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>patnet copy with annotations</u> . |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, drawn to the flashing, classified in class 52, subclass 59.
- II. Claims 10-18, drawn to the window assembly, classified in class 52, subclass 213.
- III. Claims 19-20, drawn to the method of installing, classified in class 52, subclass 741.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the assembly could employ the flashing with additional limitations above those recited in Group I. The subcombination has separate utility such as its use some other part of a building structure where there is a joint fitting between two parts.

Inventions Group I/II and Group III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another

materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the method could be employed with a flashing and window assembly having additional limitations above those recited in Groups I and II.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr Nick Gallo on February 23, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-20 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saunder (5072552) in view of (5284686). Saunders discloses a flashing capable for use in a portal installation opening with sill and jambs. The flashing comprises:

- A base member 24 having first and second portions 28 and 30; the second portion is disposed at a right angle to the first so that the an outer surface of the first portion is configured to be disposed against the sill and an outer surface of the second portion is capable of being disposed against the jamb
- A front face plate; see annotations on patent copy
- A plurality of channels disposed in the first and second portions capable of directing water toward and through the front face plate
- The first and second portions define opposite inner and outer surfaces; the outer surface is capable of being disposed against the sill and jambs; the inner surface of the of the first and second portion defining channels and

ridges and the ridges defining a surface substantially parallel to the outer surface and capable of supporting the portal

- The first and second portions are perpendicular
- The outer surface are substantially planar
- The flashing is capable of fitting against the outer surface of the first portion disposed toward the jambs of the opening and the outer surface of the second portion is capable of being disposed toward the sill opening such that the flashing is capable of being disposed in either two corners of an opening

The material of construction has been considered a matter of choice. Saunders discloses a variety uses for the flashing and the material of construction such as plastic is well known and one of ordinary skill in the art would have considered making the flashing of any material capable of fulfilling the intended use, purpose function of the flashing.

Claim 5, 7 are objected to as depending upon a rejected base claim but would be considered as allowable if amended to include the base claim and any intervening claims

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEANETTE E. CHAPMAN
PRIMARY EXAMINER
GROUP ~~2400~~ 3600

JEANETTE E. CHAPMAN
PRIMARY EXAMINER
GROUP 2400

COPY OF PATENT W/ANNOTATIONS

United States Patent [19]

Sander

[11] **Patent Number:** 5,072,552

[45] **Date of Patent:** Dec. 17, 1991

[54] **UNIVERSAL CORNER FLASHING SHINGLE AND FLASHING METHOD**

[76] **Inventor:** Mark L. Sander, P.O. Box 23,
Grabill, Ind. 46741

[21] **Appl. No.:** 478,485

[22] **Filed:** Feb. 12, 1990

[51] **Int. Cl.:** E04D 1/36

[52] **U.S. Cl.:** 52/58; 52/62;
52/219

[58] **Field of Search:** 52/58, 60, 200, 219,
52/62; 285/42-44, 424

[56] **References Cited**

U.S. PATENT DOCUMENTS

1,317,446	9/1919	Hollaender, Jr.	285/44
1,317,574	9/1919	Grosvold	285/44
2,140,407	12/1938	Schilling	52/60 X
3,977,137	8/1976	Patry	285/42 X
4,372,585	2/1983	Evora	285/43
4,620,729	11/1986	Kauffman	285/424 X
4,768,812	9/1988	Katz	285/43

4,970,837 11/1990 Fogelstrom 52/58 X

Primary Examiner—David A. Scherbel

Assistant Examiner—Lan Mai

Attorney, Agent, or Firm—Lundy & Assoc.

[57] ABSTRACT

A corner flashing for use on a roof against a protrusion. The corner flashing comprises a base having a pair of intersecting joint edges and a wall joined in watertight relation to the base at the joint edges. The wall is an upstanding, folded, and adjustable portion. The folded portion has a plurality of folds tapering toward the base. The folded portion is inelastically deformable into a plurality of configurations between a fully open configuration and a fully closed configuration. The folded portion in the fully open configuration is approximately planar. The folded portion in the fully closed configuration has all adjacent folds contiguous. The folded portion is pivotable relative to the base by the deformation of the folded portion.

16 Claims, 3 Drawing Sheets

